

Appeal from the decision of the Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application M 50529 Acq.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases:
First-Qualified Applicant -- Oil and Gas Leases: Rentals

An applicant receiving priority in a drawing of simultaneously-filed oil and gas lease applications who fails to submit payment of the proper amount of advance rental within 30 days after receipt of a notice that payment is due, as prescribed by 43 CFR 3112.4-1(a), is automatically disqualified to receive a lease.

APPEARANCES: Derelys W. Delano, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Derelys W. Delano has appealed the decision of the Montana State Office, Bureau of Land Management (BLM), rejecting her application to lease, M 50529 Acq., drawn with first priority for parcel MT 113 in the simultaneous oil and gas lease drawing held in March 1981. A Notice of Additional Requirements requesting payment of \$160 rental for the 159.64 acres encompassed in oil and gas lease application M 50529 Acq., was issued by BLM on January 5, 1982, and was received by appellant January 11, 1982. Appellant responded timely by tendering a check to BLM, which BLM received on January 22, 1982. However, this check was completed incorrectly in that the amount indicated on the check in handwriting read "One hundred dollars," \$60 less than required by the decision, while the amount written in figures was for the correct amount, \$160. Appellant's check was negotiated by BLM and honored for the amount of \$100 which was credited to appellant's account.

By decision dated February 22, 1982, BLM rejected the application stating in part:

Your application is rejected as required by Regulation 43 CFR 3112.6-1(d) for failure to submit first year's rental in accordance with 43 CFR 3112.4-1.

By Notice you were requested to submit signed lease forms and the first year's rental in the amount of \$160.00. Item (1) of the Notice stated, "the first year's rental payment in the amount specified must be paid by you and must be received in this office within 30 days from receipt." Based upon the return receipt, January 11, 1982, was the delivery date.

A copy of the Notice, signed lease forms and \$100.00 payment was received in this office on January 22, 1982. The time allowed to remit the required rental has now expired.

Appellant states in the notice of appeal filed on March 5, 1982:

At the time I wrote the check I was ill and in my confusion I wrote \$160.00 in the number area but mistakenly only put one hundred dollars when I wrote out the amount. * * *

I am enclosing an additional check for sixty dollars to rectify my error. I would appreciate your receiving this check and dismissing the rejection.

The applicable regulation 43 CFR 3112.4-1 states in part:

(a) The lease agreement, consisting of a lease form approved by the Director, Bureau of Land Management, and stipulations included on the posted list or later determined to be necessary, shall be forwarded to the first qualified applicant for signing, together with a request for payment of the first year's rental. * * * The executed lease agreement and the applicant's rental payment shall be filed in the proper Bureau of Land Management office within 30 days from the date of receipt of notice. Timely receipt of the properly signed lease and rental constitutes the applicant's offer to lease.

[1] In a number of previous decisions involving late payment of advance rentals for simultaneously filed Federal oil and gas lease applications, this Board has upheld strict application of the deadline set forth in 43 CFR 3112.4-1. See, e.g., Paul H. Landis, 61 IBLA 244 (1982); Arthur Ancowitz, 58 IBLA 112 (1981), Robert E. Bergman, 53 IBLA 122 (1981); Susan Dawson, 35 IBLA 123 (1978), aff'd, Dawson v. Andrus, 612 F.2d 1280 (10th Cir. 1980). The Dawson case is especially pertinent as the lease applicant in that case also tendered a check on which a payment of less than the required amount was identified in the written amount on the face of the check, although the correct amount was identified in figures on the face of the check. While

appellant's inadvertent error was unfortunate, 1/ her failure to make timely rental payment for the amount required by the notice compels automatic disqualification of her oil and gas lease application. Arthur Ancowitz, supra; Robert E. Bergman, supra; Susan Dawson, supra.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Will A. Irwin
Administrative Judge

1/ In the event of a discrepancy between the written and figure amounts of a check, the printed or written amount governs the amount for which it is a valid order to pay. Dawson v. Andrus, 612 F.2d at 1282. This result follows from section 3-118 of the Uniform Commercial Code which has become the applicable state law in each of the United States, excepting Louisiana. See 2 Anderson, Uniform Commercial Code, § 3-118 (2d ed. 1971)